

DEFENDANTS' EXHIBIT LIST FOR HEARING ON PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTIONCASE CAPTION: *Cross MediaWorks LLC et al. v. EMT Holdings LLC et al.*

November 13, 2014

CASE NO.: No. 14 Civ. 561 (VSB)

<u>Control No.</u>	<u>BATES NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>	<u>Stipulation</u>	<u>Objection – Authenticity</u>	<u>Objection – Admissibility</u>
1	EMT 450-468	2003	Contract	Yes		
2	EMT 439-449	8/11/05	Addendum	Yes		
3	EMT 469-485	2/13/07	Contract	Yes		
4	EMT 12-24	3/2/10	Executed Purchase and Sale of Software and Licensing Agreement	Yes		
5	EMT 1-5	11/18/11	Master Services Agreement Draft			Relevance – Cross MediaWare
6	EMT 25-30	11/21/11	2011 SOW #1 Draft			Relevance – Cross MediaWare
7	EMT 31-36	11/21/11	Cross Media List of Initial Requirements			Relevance – Cross MediaWare
8	EMT 37-45	11/21/11	2011 SOW #2 Draft			Relevance – Cross MediaWare
9	EMT 52-63	11/28/11	2011 SOW #2 Draft			Relevance – Cross MediaWare
10	EMT 89-94	12/30/11	2011 SOW #2 Draft			Relevance – Cross MediaWare
11	EMT 101-108	1/13/12	2011 SOW #2 Draft			Relevance – Cross MediaWare
12	EMT 117-122	1/13/12	2011 SOW #2 Draft			Relevance – Cross MediaWare
13	EMT 169-174	1/13/12	2011 SOW #2 Draft			Relevance – Cross MediaWare
14	EMT 183-188	1/13/12	2011 SOW #2 Draft			Relevance – Cross MediaWare
15	EMT 197-200	4/15/12	Unsigned Master Services Agreement between EMT and CMW			Relevance – Cross MediaWare
16	EMT 201-204	4/15/12	SOW #1			Relevance – Cross MediaWare
17	EMT 213-216	5/1/12	Unsigned Master Services Agreement between EMT and CMW			Relevance – Cross MediaWare
18	EMT 217-223	5/1/12	Unsigned SOW #1			Relevance – Cross MediaWare

19	EMT 266-272	5/1/12	Assignment and Amendment			FRE 408
20	EMT 273-286	5/_/12	Derivative Work Agreement			FRE 408
21	EMT 296-298	5/1/12	Unsigned SOW #1			Relevance – Cross MediaWare
22	Intentionally Omitted					
23	CMW 528	12/19/11	Emails between Joe Fabiano and Tom Weber			Relevance – Cross MediaWare Hearsay
24	CMW 917	2/23/12	Emails between Tom Weber and Mike Miller re Code Ownership			Relevance – Cross MediaWare Hearsay
25	CMW 959-976	3/19/12	Email from Joe Fabiano to Tom Weber and Jonathan Batt re The Details and our suggested alternative plan			Relevance – Cross MediaWare Hearsay
26	CMW 1128-1141	3/29/12	Cross MediaWare Project Update			Relevance – Cross MediaWare Hearsay
27	CMW 1167-1173	4/15/12	Masters Services Agreement for EMT			Relevance – Cross MediaWare
28	CMW 1195	6/13/12	Email from Joe Fabiano to Tom Weber re Delayed			Relevance – Cross MediaWare Hearsay
29	CMW 1207-1209	6/28/12	Emails between Joe Fabiano and Chris Poindexter re IP Clean-up			FRE 408
30	CMW 3677-3681	9/_/13	Unsigned Non-Disclosure Agreement between EMT & DMW			Relevance

31	CMW 3682-3688	9/_/13	Unsigned Settlement Amendment and Services Agreement			FRE 408
32	CMW 3935-3948	12/10/09	TAM SpotRate protocol	Yes		
33	CMW 4014-4038	2/28/07	TAM/EMT media traffic customizer instruction	Yes		
34	CMW 5577-5596	N/A	MAESTRO overview	Yes		
35	CMW 5964-5965	N/A	TAM IT PROJECT LIST	Yes		
36	CMW 6155-6176	N/A	MAESTRO SYSTEM DESIGN	Yes		
37	EMT 348-362	N/A	Draft Settlement, Amendment And Services Agreement Contract			FRE 408
38	EMT 363-370	N/A	Draft Settlement, Amendment And Services Agreement Contract			FRE 408
39	EMT 442-448	8/11/05	Electronic Order Handling Services Proposal for TelAmerica	Yes		
40	EMT 490-491	3/30/12	EMT invoices to CMW			Relevance – Cross MediaWare
41	EMT 499-505	N/A	Cross MediaWare Product Vision			Relevance – Cross MediaWare
42	EMT 556-559	2/24/12	Impediments to the Completion of Release 1.2			Relevance – Cross MediaWare Hearsay

43	EMT 590-594	12/11/13	Emails between Joe Fabiano, Nathan Johns, and George Menden re TelAmerica			FRE 408
44	EMT 2405-2445	N/A	Cross MediaWare Software Design Specification			Relevance – Cross MediaWare
45	EMT 2649-2651	10/9/12	Letter from Amy Benson attaching letter from Brian Cave to Joe Fabiano	Yes		
46	EMT 2718-2725	6/22/12	Email from Chris Poindexter to Joe Fabiano and Tom Weber re IP Clean-up			FRE 408
47	EMT 2918-2920	6/29/12	Email between Joe Fabiano, Tom Weber and Chris Poindexter re IP Clean-up			FRE 408
48	EMT 2955-2956	3/19/12	Letter between Joe Fabiano and Lynn Szafran re Off the record			Relevance – Cross MediaWare Hearsay
49	EMT 3162-3168	5/31/12	Email from Joe Fabiano to Chris Poindexter and Tom Weber re Cross MediaWorks Update			Relevance – Cross MediaWare Hearsay
50	EMT 3199-3218	N/A	Maestro Platform Scalability Test Results	Yes		
51	EMT 3219-3236	N/A	Workflow Scalability Interview, Analysis and Conclusion	Yes		

52	EMT 4292-4295	6/3/13	Email from Joe Fabiano to Rachel Braun, David Sisson and Kojo Cole re Cross Media Works attaching invoices			Relevance – Cross MediaWare
53	EMT 4312-4314	10/9/12	Letter between Amy Benson, Joe Fabiano and Rich Lundquist re Cross MediaWorks, attaching letter from Bryan Cave			Hearsay
54	EMT 6458-6461	6/29/12	Email between Joe Fabiano, Chris Poindexter and Tom Weber re IP Clean-up			FRE 408 Hearsay
55	EMT 5044-5101		Technology Due Diligence	Yes		
56	EMT 4590-4638	2/2011	Cross MediaWorks Confidential Information Memorandum	Yes		
57	EMT 11404-11419	5/21/12	Email from Chris Poindexter to Joe Fabiano and Ken Gavranovic re EMedia Trade Master Services Agreement and SOW			Relevance – Cross MediaWare
58	EMT 11422	6/1/12	Email between Joe Fabiano and Larry Rubin re past due invoices			Relevance – Cross MediaWare Hearsay

59	EMT 11696-11729	5/8/12	Email between Joe Fabiano, Chris Poindexter, Ken Gavanovic, and Larry Rubin re Contract			Relevance – Cross MediaWare
60	EMT 13295-13320	10/20/10	Google TV Ads Fulfillment Process SOW	Yes		
61	EMT 10880-11211		Source code from AdCore requested by Dr. P. Min	Yes		
62		3/1/04	Patent Application, “Aggregating local cable spots into national equivalent units,” Funston, Lance, Publication No. US20050193411 A1	Yes		
63		2/29/99	Patent Application, “Electronic commerce systems and processes, especially for the cable television industry,” Fabiano, III, Leonard J., Publication No. WO 2000051335 A3	Yes		
64			All materials relied upon by Nikolaus Baer			Overbroad
65			All materials relied upon by Robert McConnell			Overbroad
66			All materials relied upon by Dr. P. Min			Overbroad

67			All pleadings, including but not limited to, all documents filed of record, whether under seal			Overbroad
68			All exhibits to depositions			Overbroad
69			All documents designated as exhibits by Plaintiffs	Yes		
70			All documents for impeachment			Overbroad